

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7244

BILL NUMBER: HB 1465

NOTE PREPARED: Jan 11, 2011

BILL AMENDED:

SUBJECT: Order of Protection.

FIRST AUTHOR: Rep. Kersey

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill provides that a victim of domestic or family violence, or a parent on behalf of a child, may file a petition for an order of protection against a family or household member who threatens to commit an act of domestic or family violence.

Effective Date: July 1, 2011.

Explanation of State Expenditures: *Penalty Provision:* This bill may increase the number of individuals who violate the conditions in a protective order. When individuals violate the provisions of protective orders, they are subject to confinement in jail and/or fines. As reported by the Division of State Court Administration, violation of a protective order is considered invasion of privacy. Invasion of privacy is punishable as a Class A misdemeanor for a first offense and a Class D felony for a second or subsequent conviction. As a result, this bill may increase the number of Class A misdemeanor and Class D felony convictions in the state.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$4,818 annually, or \$13.20 daily, per prisoner. However, any additional expenditures are likely to be small. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: *Court Fee Revenue:* If this bill increases the number of requests for civil protection orders in the state, revenue from civil court fees will increase. A civil costs fee of \$100 would be

assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

Penalty Provision: If additional court cases occur and fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class A misdemeanor is \$5,000. However, any additional revenue would likely be small.

Explanation of Local Expenditures: This bill allows the parent, guardian, or another representative of a child, and victims of domestic or family violence to file a petition for a protection order against a family or household member who threatens to commit an act of domestic or family violence. Currently, a protective order can only be obtained against an individual who has committed an act of domestic or family violence. This bill will increase court caseload to the extent individuals petition the court for protection orders against individuals who threaten to commit an act of domestic or family violence.

Additionally, this bill will increase the workload of local law enforcement to include information from additional civil protection orders into the Indiana Data and Communication System (IDACS). Increases in workload will depend on the increase of court-issued protection orders.

Penalty Provision: A Class A misdemeanor is punishable by up to one year in jail. If more defendants are detained in county jails prior to their court hearings for Class D felonies, local expenditures for jail operations may increase. However, any additional expenditures would likely be small.

Explanation of Local Revenues: *Court Fee Revenue:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

Penalty Provision: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, any change in revenue would likely be small.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, city and town courts, local law enforcement.

Information Sources: Mary DePrez, Division of State Court Administration, 317-233-9926.

Fiscal Analyst: Bill Brumbach, 232-9559.